

REMARKS

This responds to the Office Action mailed on March 21, 2005, and the references cited therewith.

Claims 1, 9, 19, and 21 are amended, claim 22 is canceled, without prejudice; as a result, claims 1-21 are now pending in this application. The amendments do not introduce any new matter; therefore, Applicants believe entry of these amendments is appropriate.

Affirmation of Election

Restriction to one of the following claims was required: Group I, claims 1-21 or Group II, claim 22.

Applicants' representative, **Joseph P. Mehrle**, previously elected, in a telephone interview with Examiner **Philip C. Lee** on March 3, 2005, claims 1-21, which is Group I. Accordingly, Applicants elect to prosecute the invention of Group I, claims 1-21.

The claim of the non-elected invention, claim 22, is hereby canceled. However, Applicants reserve the right to later file continuations or divisions having claims directed to the non-elected subject matter.

§103 Rejection of the Claims

Claims 1-2, 9-10 and 20-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashyap (U.S. Publication No. 2003/0014684) in view of Webber (U.S. Publication No. 2003/0039209). It is of course fundamental that in order to sustain an obviousness rejection that each and every element or step must be taught or suggested in the proposed combination of references.

The amended independent claims now positively recite that the structure or shared state information includes an identification of an application layer protocol being used for communication by an application. This is not taught or suggested in the state information presented in Kashyap.

More specifically, the Examiner asserts that a broad statement in Kashyap located at paragraph 70 that states "the state can include other information-specific information" is sufficient to render the limitation of an "application layer protocol" for communication as being

obvious. Applicants respectfully disagree with this interpretation because paragraphs 56-69 list the specific details of the state information described in Kashyap and a broad statement such as the one above is not sufficient to encompass every conceivable situation. This is so, because by having the identity of the specific protocol being used by an application, the technique is more flexible and more generic than what can be provided by the teachings presented in Kashyap. If Kashyap anticipated such information, then Kashyap would have specifically called it out and described how it would work. This was not the case in Kashyap.

Applicants would also like to point out that implementation-specific does not refer to configurable information; it refers to device limitations or environments. The identity of a protocol is arguable not implementation-specific; rather it is application specific. Therefore, even if such a broad statement were given weight, the weight that it must be given is specific to the device or the environment and not the configurable information associated with an application.

For these reasons, Applicants respectfully assert that the rejections should be withdrawn and the claims should be allowed.

Claims 8 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashyap and Webber in view of "Official Notice." Claim 8 is dependent from amended independent claim 1 and claim 19 is dependent from amended independent claim 9; thus, for the amendments and remarks presented above with respect to claims 1 and 9, the rejections of claims 8 and 19 should be withdrawn.

Moreover, Applicants respectfully disagree with the Examiner's Official Notice with respect to the identifier that accompanies state information because the identifier itself is not state information; rather, the identifier is metadata associated with state information. Thus, Applicants do not believe the Examiner's interpretation is correct and request clarification and an example to support this Notice.

Claims 3, 11 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashyap and Webber in view of Fisher (U.S. 5,828,569). Claim 3 is dependent from amended independent claim 1 and claims 11 and 14 are dependent from amended independent claim 9;

therefore, for the amendments and remarks presented above with respect to claims 1 and 9, the rejections of claims 3, 11, and 14 should be withdrawn.

Claims 4 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashyap, Webber and Fisher in view of “Official Notice”. Claim 4 is dependent from amended independent claim 1 and claim 15 is dependent from amended independent claim 9; accordingly, for the amendments and remarks presented above with respect to claims 1 and 9, the rejections of claims 4 and 15 should be withdrawn.

Claims 5-7 and 16-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashyap, Webber and Fisher in view of “Official Notice” as applied to claims 4 and 15, and in further view of Syvanne et al. (U.S. Publication No. 2002/0112189). Claims 5-7 are dependent from amended independent claim 1 and claims 16-18 are dependent from amended independent claim 9; thus, for the amendments and remarks presented above with respect to claims 1 and 9, the rejections of claims 5-7 and 16-18 should be withdrawn.

Allowable Subject Matter

Claims 12-13 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants acknowledge and appreciate the indication that claims 12-13 are allowable if rewritten in independent format; however, Applicants believe this is unnecessary in view of the amendments and remarks presented herein and above.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 21 June 05

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of June, 2005.

Peter R. K. F. F. F.

Name

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Signature